

published in the **Federal Register** on June 14, 1995 (60 FR 31267) with a comment period that ended July 14, 1995.

Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 94-105) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes. The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

Dated: July 24, 1995.

J.E. Shkor,

Rear Admiral, U.S. Coast Guard, Chief Counsel.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL-5266-7]

RIN 2060-AE30

Criteria for the Certification and Determination of the Waste Isolation Pilot Plant's Compliance With Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Re-opening public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is re-opening the public comment period on previously proposed criteria for certifying and determining whether the Department of Energy's Waste Isolation Pilot Plant (WIPP) complies with the disposal standards set forth in 40 CFR 191 (Environmental Radiation Protection Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes). The proposed criteria and accompanying information were published in the **Federal Register** on January 30, 1995 (60 FR 5766-5791).

DATES: Comments in response to today's document must be received by September 15, 1995.

ADDRESSES: Comments in response to today's document should be submitted, in duplicate, to: Docket No. A-92-56, Air Docket, room M-1500 (6102), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC, 20460.

FOR FURTHER INFORMATION CONTACT: Mary Kruger or Elizabeth Forinash; telephone (202) 233-9310; address: Criteria and Standards Division, Mail Code 6602J, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC, 20460. The proposed criteria and supplementary information are located in Docket A-92-56. The DOE draft compliance application, described below, is located in Docket A-93-02.

SUPPLEMENTARY INFORMATION: The Department of Energy has proposed to use the WIPP, an underground geological repository in Eddy County, New Mexico, for the disposal of radioactive waste generated by atomic energy defense activities. On January 30, 1995 (60 FR 5766-5791), EPA published proposed criteria for certifying and determining whether the WIPP complies with EPA's radiation protection disposal standards set forth in 40 CFR 191. The final criteria will be used by EPA in determining whether the WIPP disposal system complies with the disposal standards, based on a compliance certification application to be submitted by DOE. See section 8 of the WIPP Land Withdrawal Act, Pub. L. No. 102-579.

EPA held a 90-day public comment period on the January 30, 1995 proposed WIPP compliance criteria that concluded on May 1, 1995. See 60 FR at 5766. EPA also conducted public hearings to receive additional public comments on the proposed criteria. The hearings were held in New Mexico from March 21-24, 1995. See 60 FR at 11060.

EPA received a request that EPA extend the initial 90-day public comment period by at least 30 days. In addition, DOE has submitted to EPA, in two parts, a draft compliance certification application. The DOE submittals have been placed in the compliance certification docket No. A-93-02, identified above. EPA does not expect DOE's draft compliance certification application to influence the contents of EPA's final compliance criteria. Nevertheless, members of the public have expressed concern that the draft application may affect EPA's final criteria.

EPA is re-opening the public comment period on the proposed compliance criteria until September 15,

1995, after considering the general request to extend the initial public comment period and to provide an opportunity for the public to comment on the proposed compliance criteria in light of DOE's draft compliance certification application. Comments in response to today's document must be received by September 15, 1995. The public is referred to the January 30, 1995 **Federal Register**, 60 FR 5766-5791, which contains the compliance criteria and accompanying information.

EPA will shortly announce a separate opportunity for public comment on DOE's draft compliance certification application. These comments will be considered in EPA's staff-level review of the draft application. EPA's staff-level review of the DOE draft application has no binding legal effect. EPA will determine whether the WIPP facility is in compliance with EPA's radiation disposal standards only after EPA issues final compliance criteria, receives a final DOE compliance certification application, and conducts a WIPP certification rulemaking proceeding in accordance with the Administrative Procedure Act rulemaking requirements at 5 U.S.C. 553.

Additional Docket Information

The Agency is currently maintaining the following public information dockets: (1) Dockets No. A-92-56 and A-93-02, located in room 1500 (first floor in Waterside Mall near the Washington Information Center), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 (open from 8:00 a.m. to 4:00 p.m. on weekdays); (2) EPA's docket in the Government Publications Department of the Zimmerman Library of the University of New Mexico located in Albuquerque, New Mexico (open from 8:00 a.m. to 9:00 p.m. on Monday through Thursday, 8:00 a.m. to 5:00 p.m. on Friday, 9:00 a.m. to 5:00 p.m. on Saturday, and 1:00 p.m. to 9:00 p.m. on Sunday); (3) EPA's docket in the Fogelson Library of the College of Santa Fe in Santa Fe, New Mexico located at 1600 St. Michaels Drive (open from 8:00 a.m. to 12:00 midnight on Monday through Thursday, 8:00 a.m. to 5:00 p.m. on Friday, 9:00 a.m. to 5:00 p.m. on Saturday, 1:00 p.m. to 9:00 p.m. on Sunday); and (4) EPA's docket in the Municipal Library of Carlsbad, New Mexico located at 101 S. Halegueno (open from 10:00 a.m. to 9:00 p.m. on Monday through Thursday, 10:00 a.m. to 6:00 p.m. on Friday and Saturday, and 1:00 p.m. to 5:00 p.m. on Sunday). As provided in 40 CFR part 2, a

reasonable fee may be charged for photocopying docket materials.

Richard Wilson,

Acting Assistant Administrator, Office of Air and Radiation.

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40 CFR Part 372

[OPPTS-400095; FRL-4958-8]

Di-(2-ethylhexyl) Adipate; Toxic Chemical Release Reporting; Community Right-to-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to grant a petition to delist di-(2-ethylhexyl) adipate (DEHA) (Chemical Abstract Service (CAS) No. 103-23-1), also known as bis-(2-ethylhexyl) adipate, from the reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA). This action is based on EPA's preliminary conclusion that DEHA meets the deletion criteria of EPCRA section 313(d)(3). Specifically, EPA is proposing to grant this petition because, based on the total weight of available data, EPA believes that: (1) DEHA cannot reasonably be anticipated to cause significant acute adverse human health effects at concentration levels expected to occur beyond facility site boundaries and thus does not meet the criterion of EPCRA section 313(d)(2)(A); (2) DEHA does not meet the criterion of EPCRA section 313(d)(2)(B) because it cannot reasonably be anticipated to cause cancer, teratogenic effects, immunotoxicity, neurotoxicity, gene mutations, liver, kidney, reproductive, or developmental toxicity or other serious or irreversible chronic health effects; and (3) DEHA does not meet the criterion of EPCRA section 313(d)(2)(C) because it cannot reasonably be anticipated to cause significant and serious adverse effects on the environment.

DATES: Written comments on this proposed rule must be received by October 2, 1995.

ADDRESSES: Submit written comments in triplicate and identified with docket number "OPPTS-400095" to: OPPT Document Control Officer (7407), Environmental Protection Agency, Rm. NE-G99, 401 M St., SW., Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number OPPTS-400095. No CBI should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit V. of this document.

FOR FURTHER INFORMATION CONTACT: Maria J. Doa, 202-260-9592, e-mail: doa.maria@epamail.epa.gov, for specific information regarding this proposed rule. For further information on EPCRA section 313, contact the Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail Stop 5101, 401 M St., SW., Washington, DC 20460, Toll free: 800-535-0202, in Virginia and Alaska: 703-412-9877, or Toll free TDD: 800-553-7672.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

This action is taken under sections 313(d) and (e)(1) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. 11023. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 99-499).

B. Background

Section 313 of EPCRA requires certain facilities manufacturing, processing, or otherwise using listed toxic chemicals to report their environmental releases of such chemicals annually. Beginning with the 1991 reporting year, such facilities also must report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of the Pollution Prevention Act of 1990 (PPA), 42 U.S.C. 13106. Section 313 of EPCRA established an initial list of toxic chemicals that was comprised of more than 300 chemicals and 20 chemical categories. DEHA was included in the initial list of chemicals and categories. Section 313(d) authorizes EPA to add or delete chemicals from the list, and sets forth criteria for these actions. EPA has added and deleted chemicals from the original statutory list. Under section 313(e), any person may petition EPA to

add chemicals to or delete chemicals from the list. EPA must respond to petitions within 180 days, either by initiating a rulemaking or by publishing an explanation of why the petition is denied.

EPA issued a statement of petition policy and guidance in the **Federal Register** of February 4, 1987 (52 FR 3479), to provide guidance regarding the recommended content and format for submitting petitions. On May 23, 1991 (56 FR 23703), EPA issued guidance regarding the recommended content of petitions to delete individual members of the section 313 metal compound categories. EPA has also published a statement clarifying its interpretation of the section 313(d)(2) and (3) criteria for adding and deleting chemical substances from the section 313 list (59 FR 61439, November 30, 1994).

II. Description of Petition and Other Applicable Regulations

On January 18, 1995, EPA received a petition from the Chemical Manufacturers Association to exclude di-(2-ethylhexyl) adipate (DEHA) from section 313 of EPCRA. Specifically, the petition requests that DEHA be deleted from the list of reportable chemicals and not be subject to the annual reporting requirements under EPCRA section 313 and section 6607 of the PPA. The petitioner contends that DEHA should be deleted from the EPCRA section 313 list because, in their opinion, the available data show that DEHA does not meet the criteria for inclusion on the list of EPCRA section 313 chemicals.

Under the Safe Drinking Water Act, DEHA has a Maximum Contaminant Level of 0.4 milligrams per liter (mg/L).

III. EPA's Technical Review of Di-(2-ethylhexyl) adipate

A. Chemistry

DEHA (CAS No. 103-23-1), also known as bis(2-ethylhexyl) adipate and as dioctyl adipate, is an aliphatic ester used primarily as a plasticizer in a variety of products such as polyvinyl chloride (PVC) and other plastics, cellophane, rubber, and cosmetics. It is a light-colored, oily liquid with low water solubility (0.78 milligrams/liter (mg/L) at 22 °C measured in 1986). DEHA has a very high boiling point (410 °C), low volatility, very low pour point, and excellent low temperature fluidity (Ref. 1).

B. Toxicological Evaluation

Information on DEHA was reviewed for evidence indicating: (1) Bioavailability and metabolism; (2) acute toxicity; (3) chronic toxicity; (4) carcinogenicity; and (5) ecotoxicity.